IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

THOMAS HOLMES, :

:

Plaintiff, :

v. : Civil Action No. : 5:08-CV-422 (HL)

GAINEY TRANSPORTATION: SERVICES, INC., STATE NATIONAL: INSURANCE CO. INC., and GEORGE MISSOURI, JR..:

Defendants.

ORDER

This matter is before the Court on the parties' Joint Motion to Re-Open Discovery and Amend Scheduling Order (Doc. 25). For the following reasons, the Court denies the Motion, but provides the parties supplemental relief.

Discovery in this case closed on September 4, 2009. The parties agreed to mediate the case on October 29, 2009, but were unsuccessful. During the mediation Plaintiff presented to Defendants an affidavit from Willie Smith, an eyewitness that was previously unknown to the parties. Plaintiff also presented names of previously identified damages witness. As a result, the parties ask the Court to re-open discovery for sixty days so that Defendants may depose Willie Smith and the damage witnesses. The Court held a telephone conference on November 10, 2009 with the parties to discuss the pending Motion. Having the agreement of the parties, the Court now rules as follows:

Case 5:08-cv-00422-HL Document 28 Filed 11/13/09 Page 2 of 2

(1) The Defendants are to depose eyewitness Willie Smith by November 27,

2009.

(2) The parties are to submit a report to the Court by November 27, 2009,

explaining whether Defendants deposed Willie Smith.

(3) The Defendants are to submit a report to the Court by November 27, 2009

explaining the status of the bankruptcy proceedings of Defendant Gainey

Transportation Services, Inc. and whether they will request the bankruptcy court to

lift the automatic stay of proceedings.

(4) If either party wishes to designate an expert, that party should promptly file

a motion with the Court seeking permission to designate an expert.

SO ORDERED, this the 13th day of November, 2009.

s/ Hugh Lawson

HUGH LAWSON, Senior Judge

Imc